

THE CORPORATION OF THE
TOWN OF PELHAM

BY-LAW NO. 2063 (1999)

Being a by-law to authorize the Mayor and Clerk to enter into a Site Plan Agreement with Steed & Evans Holdings Inc.

WHEREAS the Council of the Corporation of the Town of Pelham deems it desirable to enter into a Site Plan Agreement with Steed & Evans Holdings Inc. with regard to the expansion of five (5) holes for the Peninsula Lakes Golf & Country Club.

NOW THEREFORE THE COUNCIL OF THE CORPORATION OF THE TOWN OF PELHAM ENACTS AS FOLLOWS:

(1) THAT the Site Plan Agreement attached hereto and made part of this by-law between the Corporation of the Town of Pelham and Steed & Evans Holdings Inc. be and the same is hereby approved.

(2) THAT the Mayor & Clerk be and each of them is hereby authorized and instructed on behalf of the Corporation of the Town of Pelham to execute the said Site Plan Agreement and the Clerk is hereby authorized to affix the Corporate Seal thereto.

READ A FIRST, SECOND AND THIRD TIME
AND FINALLY PASSED BY COUNCIL THIS
15TH DAY OF FEBRUARY, 1999 A.D.


MAYOR RALPH BEAMER


CLERK MURRAY HACKETT

THIS AGREEMENT made in triplicate this *31st* day of *March*, 1999 A.D.

BETWEEN:

STEED & EVANS HOLDINGS INC.

Hereinafter called the "Owner"

OF THE FIRST PART

- and -

THE CORPORATION OF THE TOWN OF PELHAM

Hereinafter called the "Town"

OF THE SECOND PART

WHEREAS the Owner purports to be the owner of the lands in the Town of Pelham described in Schedule "A" attached hereto;

AND WHEREAS the Owner is desirous of constructing an expansion to a golf course in accordance with Schedule "B" attached hereto, being the grading, siltation control and landscape plan filed in the Town's offices;

AND WHEREAS the Town has agreed to permit the said development subject to certain terms and conditions;

NOW THEREFORE THIS AGREEMENT WITNESSETH that in consideration of the sum of One Dollar (\$1.00) now paid by the Owner to the Town (the receipt whereof is hereby acknowledged), the Parties hereto mutually covenant and agree as follows: -

1. DEFINITIONS in this agreement: -

(a) "TOWN CLERK" shall mean the Clerk of the Corporation of the Town of Pelham.

(b) "COUNCIL" shall mean the Council of the Corporation of the Town of Pelham.

(c) "DIRECTOR" shall mean the Director of Operations of the Town of Pelham.

(d) "TREASURER" shall mean the Director of Financial Services of the Corporation of the Town of Pelham.

(e) "CHIEF BUILDING OFFICIAL" shall mean the Chief Building Official of the Corporation of the Town of Pelham.

(f) "PROFESSIONAL ENGINEER" shall mean a Professional Engineer registered with the Association of Professional Engineers.

(g) "PROFESSIONAL ARCHITECT" shall mean a Professional Architect registered with the Ontario Association of Architects.

(h) "FACILITIES AND WORKS" means and includes the grading and siltation control which are shown on or referred to in any one or more of the plans and drawings and schedules to this agreement.

2. The Owner agrees to develop and maintain the lands only in accordance with the terms and conditions contained herein and any other applicable by-law of the Town.

3. (a) The Owner agrees to perform any and all construction and installation of the facilities and work on the said lands in accordance with the terms and conditions contained herein and as shown on Schedule "B", attached hereto and forming part of this agreement to the reasonable satisfaction of the Town.

(b) And further, the Owner agrees not to perform any construction or installation on the said lands except in accordance with the terms and conditions contained herein and shown on said Schedule "B", attached hereto and forming part of this agreement and to the reasonable satisfaction of the Town.

(c) Notwithstanding that the Owner is required to carry out the landscaping requirements as provided for Schedule "B" the Town shall not be required or obligated to supervise, monitor or direct the Owner in the completion of the landscaping of the lands.

4. GRADING AND SILTATION CONTROL:

(a) The Owner agrees to have prepared by an Ontario Land Surveyor or Professional Engineer, a detailed grading plan for the site, said plans to clearly indicate the existing drainage pattern on all adjacent lands and provide for the direction of all surface drainage, including water from adjacent lands originally flowing through, into or over the area of the site, to the street storm system or other outlet approved by the Director. This grading plan shall be approved by the Director prior to the execution of this agreement. Minor changes to the lot grading plan may be permitted subject to the approval of the Director.

(b) The Owner agrees to submit to the Town a certificate signed by an Ontario Land Surveyor or Professional Engineer confirming compliance with the grades as stipulated on Schedule "B" to this agreement.

5. WELL MONITORING:

(a) In the event that a water supply well is to be established on the expansion lands, the Owner shall, at its own expense, engage a qualified hydrogeologist to pump test and undertake observation monitoring at all on-site wells and accessible off-site wells within a

minimum of 300m of the property, and provide a report to the Town. Should the pumping rate of the well exceed 50,000 L/day, the Owner shall comply with the standards and requirements of the Ministry of the Environment pursuant to the Ontario Water Resources Act, R.S.O. 1990.

(b) In the event that water is to be drawn from the pond(s) on the expansion lands for irrigation purposes without supplementation of the pond to an equivalent water volume from the well and ponds under Permit to Take Water No. 94-P-2063, the Owner shall, at its own expense, engage a qualified hydrogeologist to pump test and undertake observation monitoring of on-site wells and accessible off-site wells within a minimum of 300m of the property and provide a report to the Town for review by the Director.

6. DEPOSIT FOR FACILITIES AND WORKS:

(a) At the time of execution of this agreement the Owners will pay to the Town a deposit to guarantee their compliance with this agreement in the amount of 30% of the estimated value of the facilities and works required pursuant to this agreement (as such estimate is provided by the Owners and accepted by the Town); such estimated value being the sum of \$30,000.00 as set out in Schedule "C" attached hereto and forming part of this agreement.

(b) Such deposit shall be paid to the Town in cash or in the form of an irrevocable letter of credit from a chartered bank or from a recognized lending institution, subject to the approval of the Treasurer.

(c) Such deposit may be used to pay for the cost of any work performed by the Town in accordance with the following clause in the event of the failure of the Owners to comply with any terms of this agreement.

(d) Upon completion of the facilities and works, a Professional Engineer, Architect or both shall confirm in writing compliance with the approved plans appended hereto. When notice has been received of such compliance the Chief Building Official shall confirm such compliance and such deposit, less any amounts expended to enforce compliance with this agreement and any amounts refunded or reduced as the work required by this agreement progresses, shall be returned to the Owner, without interest.

(e) The Town may, from time to time, demand an increase in the sum of the deposit in accordance with increases in the cost of performing the facilities and works required herein to be completed.

(f) The release of the deposit by the Town does not release the Owners from their obligation to maintain all of the facilities and works pursuant to this agreement.

(g) The Owner agrees that all of the facilities and works required to be provided by the Owner shall be provided, installed or constructed by the Owner within one hundred and eighty (180) days after the date of substantial completion of the proposed development as determined by the Chief Building Official and shall be maintained at all times in good condition.

7. GENERAL:

(a) The Owner grants to the Town, its servants, agents and assigns permission to enter upon the said lands for the purpose of inspection of any facilities and works referred to in this agreement and for the purpose of the completion of any facilities and works in accordance with this clause and this agreement.

(b) The Owner will, at all times, indemnify and save harmless the Town from all loss, costs, damages and injuries which the Town may suffer or be put to for or by reason of the construction, maintenance or existence of any facilities and works done by the Owner, its contractors, servants or agents on the land described in Schedule "A" annexed hereto or which the Town may suffer or be put to for or by reason of the completion by the Town of any of the required facilities and works in accordance with this clause and this agreement.

8. The Owner shall not call into question directly or indirectly in any proceeding whatsoever in law or in equity or before any administrative tribunal the right of the Town to enter into this agreement and to enforce each and every term, covenant and condition herein contained and this agreement may be pleaded as an estoppel against the Owner in any such proceeding.

9. The Owner covenants for itself, its successors and assigns and the Owners from time to time of the said lands and the burden of the covenants contained in this agreement shall be deemed to be negative and shall run with and be binding upon the lands described in said Schedule "A" to and for the Town, its successors and assigns.

10. The Owner agrees and consents to the registration of notice of this agreement against the said lands described in said Schedule "A" attached hereto.

11. This agreement and the provisions hereof do not give to the Owner or any person acquiring any interest in the said lands (each hereinafter in this paragraph called "such person") or any other person any rights against the Town with respect to the failure of any such person to perform or fully perform any obligation under this agreement, or the failure of the Town to force any such person to perform or fully perform any obligation under this agreement or any negligence of any such person in the performance of the said obligation.

12. Notwithstanding any of the provisions of this agreement, the Owner, its successors and assigns, shall be subject to all of the by-laws, as amended, of the Town required pursuant to the terms of the agreement or at the time of the execution of this agreement.

13. The Owner agrees that all plans shall be drawn by a Professional Architect or by a Professional Engineer and all surveys by an Ontario Land Surveyor, subject to the reasonable satisfaction of the Town.

14. Any notice, demand, acceptance or request provided for in this agreement shall be in writing and shall be deemed to be sufficiently given if personally delivered or sent by registered mail (postage prepaid) as follows:

To the Town at:

Town Clerk
Town of Pelham
P. O. Box 400
20 Pelham Town Square
Fonthill, Ontario L0S 1E0

To the Owner at:

Steed & Evans Holdings Inc.
300 Bridge Street East
Kitchener, Ontario N2K 2B7


or any other such address that the parties may from time to time designate in writing and every such notice shall be deemed to have been given upon the day it was so delivered or on the fifth day after the date upon which it is mailed by registered mail.

15. The originals of all plans attached to this agreement are available for viewing at the offices of the Town at the address noted in paragraph 14 above.


IN WITNESS WHEREOF the Parties hereto have executed this agreement as of the date and year first above written.

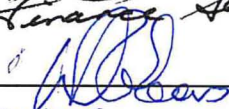
THE CORPORATION OF THE TOWN OF PELHAM

PER: 
Mayor Ralph Beamer

PER: 
Clerk Murray Hackett

STEED & EVANS HOLDINGS INC.

PER: 
WALTER NUYK
V.P. Finance Secretary-Treasurer

PER: 
DENIS EVANS
Chairman